

EXHIBIT 4

E

Page 1	Page 3
<p>VOL. I Pp. 1 - 117 Exhibits 1 - 1</p> <p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS</p> <p>C.A. NO.: 0412164MLW</p> <p>*****</p> <p>ERIC SOUVANNAKANE, Plaintiff</p> <p>VS.</p> <p>SEARS ROEBUCK & COMPANY, WILLIAM SULLIVAN, RICHARD SPELLMAN, BARBARA TAGLIARINO, KEVIN SULLIVAN, ALICIA COVIELLO, GARY MANSFIELD, Defendants</p> <p>*****</p> <p>Deposition of JOHN W. BALDI, a witness called by counsel for the Defendants, Gary Mansfield, pursuant to the applicable rules, before Lorreen Hollingsworth, CSR/RPR, CSR NO. 114793, and Notary Public in and for the Commonwealth of Massachusetts, at the Law Offices of Pierce, Davis & Perritano, LLP, Ten Winthrop Square, Boston, Massachusetts, on Tuesday, April 18, 2006, at 10:15 a.m.</p>	<p>I N D E X</p> <p>Deposition of: DIRECT CROSS</p> <p>JOHN W. BALDI</p> <p>(by Mr. Cloherty) 4</p> <p>(by Ms. Tran) 85</p> <p>(by Mr. Olson) 110</p> <p>E X H I B I T S</p> <p>No. For Ident.</p> <p>1 The statement dated 10/17/03 70</p> <p>Exhibits retained by Attorney Cloherty</p>
Page 2	Page 4
<p>APPEARANCES:</p> <p>KURT S. OLSON, ESQUIRE 500 Federal Street Andover, Massachusetts 01810 (978) 681-0800 On behalf of the Plaintiff</p> <p>JOHN J. CLOHERTY, III, ESQUIRE Pierce, Davis & Perritano, LLP Ten Winthrop Square Boston, Massachusetts 02110 (617) 350-0950 On behalf of the Defendant, Gary Mansfield</p> <p>LIZA J. TRAN, ESQUIRE Sugarman, Rogers, Barshak & Cohen, P.C. 101 Merrimac Street Boston, Massachusetts 02114 (617) 227-3030 On behalf of the Defendants, Sears Roebuck & Company, William Sullivan, Richard Spellman, Barbara Tagliarino, Kevin Sullivan, and Alicia Coviello</p> <p>Also Present:</p> <p>John A. Baldi, Father of Deponent</p>	<p>S T I P U L A T I O N S</p> <p>It is hereby stipulated and agreed by and between counsel for the respective parties that the deposition will be read and signed by the witness, under the pains and penalties of perjury, and that the scaling, filing, and notarization of the deposition are waived.</p> <p>It is further stipulated and agreed that all objections, except as to form, and motions to strike are reserved until the time of trial.</p> <p>JOHN BALDI, a witness called on behalf of the Defendant, Gary Mansfield, having first been duly sworn, deposes and says as follows:</p> <p>DIRECT EXAMINATION BY MR. CLOHERTY</p> <p>Q Good morning, sir. Could you please state your name for the record.</p> <p>A John W. Baldi.</p> <p>Q And what does the W. stand for?</p> <p>A Wayne.</p>

Page 41

1 A I forget.

2 Q Is it a Massachusetts state entity?

3 A I'm not sure.

4 Q Now, you mentioned earlier that a couple

5 weeks after Eric was terminated, you were

6 aware of an oil spill in the oil bays?

7 A Yes.

8 Q I'm going to focus your attention on that.

9 When did you first become

10 aware of the oil spill in the oil bays at

11 that time?

12 A I was first aware of it the night before

13 the biggest incident happened. I remember

14 seeing oil on the ground. And I believe I

15 told -- Kevin Sullivan was there that

16 night -- about the oil in the back because

17 it wasn't -- you know, it wasn't big, but

18 it wasn't normal as far as -- like an

19 everyday occurrence thing. It was bigger

20 than normal, but it wasn't huge.

21 Q I'm going to ask you: Who is Kevin

22 Sullivan?

23 A Kevin is -- I think his position is called

24 a lead CSA. I don't know what it means,

Page 42

1 but he's basically -- he's a manager on

2 Sundays, pretty much, and a manager at

3 nights. They give him the responsibility

4 of closing the store, sometimes opening.

5 Q Do you know what a CSA stands for?

6 A I have no idea.

7 Q The time that you reported that to Kevin

8 Sullivan, do you remember what time -- it

9 was an evening shift?

10 A It was the evening and we were about ready

11 to get out of there.

12 Q And do you know what caused that oil spill

13 that was on the ground that you saw that

14 you reported to Kevin Sullivan?

15 A I have no idea. It was around the waste

16 tanks in the back. I have no idea.

17 Q Can you estimate the volume of oil that was

18 spilled?

19 A I don't know the volume, but it was a

20 puddle of about, I want to say, 5 feet --

21 5 feet wide. I couldn't tell you how far

22 back it went because it went under --

23 there's a giant plastic drum back there and

24 there was a whole bunch of other stuff back

Page 43

1 there. But as far as I could see, it was

2 about 5 feet wide, maybe 6 feet.

3 Q And you couldn't tell the depth of the

4 puddle because there were items in the way?

5 A There was a whole bunch of stuff in the

6 back. There are drums, other waste tanks;

7 there are other oil drums that you pull oil

8 from.

9 Q You had been working earlier that day,

10 correct?

11 A Yes. I don't remember my exact hours, but

12 I was working -- I believe I worked

13 something like a noon shift to close. And

14 I don't remember what time they closed back

15 then. They changed their hours.

16 Q Had you seen any oil at any time earlier in

17 the day that you just described, that

18 puddle of oil?

19 A No.

20 Q Had you been back in the area where that

21 puddle of oil was?

22 A Throughout the day?

23 Q Yes.

24 A I don't recall.

Page 44

1 Q Do you know if -- in other words, I'm

2 asking, do you know if that puddle of oil

3 was existing for a long period of time

4 before you saw it?

5 A I don't know how long the oil was there

6 for.

7 Q Had you seen Eric Souvannakane that day

8 that you noticed the oil spill and reported

9 it to Kevin Sullivan?

10 A Yes. I saw him earlier and -- well, it was

11 dark out, but I don't remember what time it

12 was.

13 Q It was earlier in the evening, then?

14 A Yes. He came once. I gave him the keys.

15 He came back, gave me the keys back.

16 That's when it was dark out.

17 Q Now, you just mentioned he came and got the

18 keys. What are you referring to when he

19 came and you gave him the keys?

20 A Keys to the Ford pickup so he could do his

21 whole move.

22 Q So the earlier incident you mentioned that

23 you lent him your dad's Ford pickup truck,

24 that was the same day as the -- when you

Page 45

1 noticed that oil spill and reported it to
 2 Kevin Sullivan?
 3 A It was the same day.
 4 Q And how was it that Eric came to see you to
 5 get the keys to the car? Had you spoken to
 6 him before to make those arrangements?
 7 A I don't remember. I think he asked me
 8 beforehand, but I'm not really sure.
 9 Q Is it possible that he just arrived at the
 10 work site and asked you if he could borrow
 11 your truck then?
 12 A Yeah, he could have.
 13 Q And at that point in time, you knew that
 14 Eric had already been terminated from his
 15 employment?
 16 A Yes.
 17 Q Had you seen him back at the work site at
 18 any time since his termination until that
 19 time he came to get the keys?
 20 A Yes.
 21 Q How many times had he come back to the work
 22 site?
 23 A I'm not sure, less than five maybe.
 24 Q And under what circumstances did he come

Page 46

1 back to the work site after his
 2 termination?
 3 A He -- I saw him -- he was driving by once
 4 when he had his daughter -- he was coming
 5 from the back because there are two ways to
 6 get into the parking lot. And he was going
 7 to get something, and I was -- I forget why
 8 I was outside. But I saw him and I waved
 9 to him.
 10 And then one time he came back
 11 to actually buy tires. And he actually
 12 talked with the boss, Anthony; he talked to
 13 Anthony Ceiri, the manager.
 14 Q And who put on the -- did he actually buy
 15 tires?
 16 A Well, he was -- I was talking to him
 17 outside. And Anthony came up and started
 18 talking to him. And we were by some bay,
 19 and then I went to finish a job. And it
 20 was, like -- I remember Anthony told him,
 21 you know -- he said he could buy tires. I
 22 remember telling him, Yeah, can you go up
 23 front. So Eric goes up front to wait for
 24 tires.

Page 47

1 Q Do you know whether he, in fact, bought
 2 tires at the time --
 3 A No, he left. Sorry for interrupting.
 4 Q That's okay.
 5 Did you ever talk to him about
 6 why he left and did not buy tires?
 7 A Yes.
 8 Q And what did you learn?
 9 A I -- actually, when he was in line to buy
 10 something, one of the salesmen said, Hey, I
 11 think you should leave. Anthony is on the
 12 phone and he's talking about you.
 13 And he said, For what? He
 14 goes, I don't know; but I think you should
 15 leave.
 16 And then he left. And I went
 17 back to the back shop. And then Anthony
 18 said, Where did he go? I'm, like, He left.
 19 Q Did you have any further discussion with
 20 Anthony about that?
 21 A He said, He's not supposed to be here. And
 22 I said, Why did you tell him to go wait in
 23 line? And he was -- he was upset. I mean,
 24 he was turning red. And then he --

Page 48

1 Q Who was turning red, Anthony?
 2 A Yes, Anthony was turning red. Eric was
 3 gone. Eric left after the salesman said, I
 4 think you should leave.
 5 Q And what further transpired between you and
 6 Anthony talking about that?
 7 A I just remember him being upset. And then
 8 he started yelling at me. And I said,
 9 Don't yell at me.
 10 Q And how did he respond when you told him
 11 not to yell at you?
 12 A I don't remember exactly what he did. I
 13 just remember him being upset. And then I
 14 remember asking him, If he's not supposed
 15 to be here, why did you send him in the
 16 line to buy tires?
 17 Q Did Anthony have a response to that?
 18 A I don't remember.
 19 Q Did you have any further information or
 20 knowledge of that incident where Eric came
 21 to buy tires?
 22 A No.
 23 Q Now, directing your attention back to the
 24 date when Eric was borrowing the keys to

1 your dad's Ford, can you please describe
 2 your memory of what happened when Eric
 3 first came in to get the keys from you?
 4 A He came in and I -- I gave him the keys. I
 5 don't remember how long he stayed. It
 6 couldn't have been long because I was
 7 working and then he left. And he was gone
 8 for a couple of hours. And then he came
 9 back and gave me the keys.
 10 Q Did you have any discussion with him when
 11 he first borrowed the keys from you about
 12 borrowing the truck or what to do and not
 13 to do?
 14 A I don't remember exactly what was said.
 15 Q Did you see Eric talk to any other Sears
 16 employees when he was there first picking
 17 up the keys from you?
 18 A I don't recall.
 19 Q And how long was he in this store for when
 20 he was borrowing the keys that first time?
 21 A It couldn't have been long.
 22 Q A matter of minutes?
 23 A Possibly. I'm really not sure.
 24 Q And you said he returned a couple hours

1 later.
 2 Can you describe what happened
 3 when he returned?
 4 A He came back; he gave me the keys; I
 5 remember we were talking in one of the
 6 brake bays, more in the threshold to
 7 outside; we were just, you know, BS'ing
 8 around. And I remember he knocked one of
 9 the oil drums. And then he was, like, Oh.
 10 He didn't -- when he bumped
 11 it, it was more like he was kidding. It
 12 wasn't, like, malicious. He was like, This
 13 is Larry's bay. He started cleaning up.
 14 He was like, Oh.
 15 Q I didn't catch what you said, he said oh?
 16 A Oh, this is Larry's bay. Larry is a brake
 17 guy that works in the back.
 18 Q So earlier when you described it as the
 19 "brake bay," that's where you fix
 20 automobile brakes?
 21 A Yes.
 22 Q Did you see how he bumped into the oil
 23 drum?
 24 A I think he kicked it. I'm not sure.

1 Q And what kind of -- can you describe the
 2 oil drum that he kicked?
 3 A It was one of the ones that totes -- you
 4 can tote around the shop, the portable ones
 5 with the -- they have a steel drum and they
 6 have a catch pan connected to a pipe that
 7 runs into the drum.
 8 Q And do you know the volume of that
 9 particular drum?
 10 A That's one of those 20- 25- 30-gallon
 11 drums.
 12 Q And you said that it got knocked over? Was
 13 it knocked over on its side?
 14 A I can't remember if that was knocked over
 15 or if it was one of the 5-quart oil fill
 16 jugs that are on the top. Because if one
 17 of those fell over, it would be a mess.
 18 And there wasn't -- I mean, maybe a half a
 19 quart -- not even a half a quart of oil
 20 that came out when he hit the barrel.
 21 Q Okay. So you have a memory of the volume
 22 of the spill being small?
 23 A Yes. The oil that came out of what he hit
 24 was very small, I mean, smaller than this.

1 Q And the record is not going to reflect what
 2 you're pointing to.
 3 A Sorry. It's smaller than --
 4 Q 2 feet by a foot and a half?
 5 A Yeah, 2 feet.
 6 Q Now, you mentioned that there could have
 7 been two sources of that oil, the big
 8 30-gallon drum or another little 5-gallon
 9 gallon drum that you mentioned?
 10 A 5 quarts.
 11 Q 5 quarts?
 12 A There's -- when you use one of those
 13 tote -- well, the tote drains, to drain the
 14 waste oil in. They have 5 -- there's one
 15 4-quart and one 5-quart metal fill. It's
 16 an oil fill. You go up to the pumps, you
 17 pump the new oil into that, and you use
 18 that to fill the car since the oil base is
 19 the only source of the oil. So you use
 20 those oil hoses to fill one of those and
 21 you can walk around the shop and fill up a
 22 car.
 23 Q Okay. And the 5-quart oil fill buckets,
 24 are those stored on the ground level or are

1 they stored overhead or where are they
 2 kept?
 3 A They're stored wherever people leave them.
 4 Q And you have a memory of him kicking or
 5 bumping into some kind of barrel. Do you
 6 remember that?
 7 A Yes, he bumped into one of the -- the waste
 8 oil -- the tote waste oil drain buckets,
 9 and I can't remember if that's what moved
 10 and caused the oil to come out or if it was
 11 one of those 5-quart fills that was in the
 12 pan on top of it, because sometimes people
 13 will leave it up there.
 14 Q Oh, okay. That's what I was trying to
 15 determine.
 16 How could his bumping into the
 17 30-gallon drum affect the 5-quart metal
 18 fill?
 19 A Yes. I believe there was a 5-quart in that
 20 drain because a lot -- I even do it. You
 21 leave the 5-quart inside the waste pan, so
 22 you don't get oil everywhere.
 23 Q And either way there was a spill created by
 24 Eric's conduct, right?

1 A Yes, a very small spill.
 2 Q And what happened after that?
 3 A He put down the abrasive pads, put down one
 4 or two, cleaned it up, put it in the trash.
 5 We talked, and then he left.
 6 Q When you say "abrasive pads," you mean the
 7 absorbent pads?
 8 A Yes, yes, excuse me, the absorbent pads,
 9 the white absorbent pads. They're 3M pads.
 10 Q Did you see him clean up those pads after
 11 they had been placed down?
 12 A Yes. He cleaned the oil up, picked the
 13 pads up, put them in the trash.
 14 Q Did you have any discussion with him about
 15 that spill while he was doing the cleanup?
 16 A I walked outside. I, kind of, turned my
 17 back, walked outside, came back in.
 18 Q Did you help him in the cleanup itself?
 19 A No.
 20 Q Did he tell you not to tell anyone about
 21 the cleanup?
 22 A No, not to the best of my knowledge,
 23 anyway.
 24 Q Did he tell you, You didn't see anything?

1 A No.
 2 Q Did he ask you to go outside and be a
 3 lookout for him while he was cleaning up?
 4 A No.
 5 Q Why did you go outside, sir?
 6 A I was -- we were more in the threshold and
 7 when that happened, he said, This is
 8 Larry's bay. And I, kind of, did one of
 9 these and laughed a little bit and, kind
 10 of, did one of those. I, kind of -- I
 11 turned to my left. I was leaning up
 12 against the threshold, and I, kind of,
 13 walked outside and did one of these
 14 (indicating). I put my hand on my face; I
 15 came back in. And he was cleaning it up.
 16 It was -- I mean, it wasn't
 17 long enough where I would have missed
 18 anything as far as me turning away. I
 19 didn't actually turn my back away from it.
 20 I just, kind of, walked.
 21 Q Okay. And just so the record is clear,
 22 when you were describing your actions, you
 23 said, I, kind of, did one of these. And
 24 you were gesturing by rubbing your hand on

1 your eyes?
 2 A Yes, I put my hand on my head and covered
 3 one of my eyes.
 4 Q What happened after you saw Eric do that
 5 cleanup and throw the absorbent pads in the
 6 trash?
 7 A I don't remember exactly what was said. I
 8 know he left shortly after that.
 9 Q And did you see the area where the spill
 10 had happened after he did the cleanup?
 11 A The spill that -- when he hit the --
 12 Q Yes, the one that Eric was cleaning up.
 13 Did you see the area that he was cleaning
 14 up after it was done?
 15 A Yes, it was in a -- it was almost in the
 16 middle, like, exact middle of the bay. It
 17 was right out in the open.
 18 Q And was the cleanup effective in the
 19 fact -- was the oil cleaned up?
 20 A Yes.
 21 Q How far was the location of that spill from
 22 the site of the oil you saw on the floor
 23 that you reported to Kevin Sullivan?
 24 A The oil -- the oil he bumped or knocked was

Page 57

1 in a brake bay. There's a dead bay and
 2 then the oil bays start. I want to say
 3 it's 25 feet away, maybe 30 feet away.
 4 Q So it was two bays over?
 5 A About two bays over, yes.
 6 Q Did you ever see Eric Souvannakane in that
 7 bay, the oil bay, where you had later
 8 noticed the spill?
 9 A No, we stayed by the thresholds of the
 10 brake bays.
 11 Q Did you at any time that day see him or
 12 that evening see him in the area by that
 13 oil spill in the oil bay?
 14 A No.
 15 Q So earlier you had described that you had
 16 seen the oil spill in the oil bay that you
 17 reported to Kevin Sullivan. Do you recall
 18 that you testimony?
 19 A I don't remember exactly. I remember
 20 walking -- that same night I remember
 21 walking back from there, and he was walking
 22 next to me. That's why I believe I told
 23 him about the oil down in the back.
 24 I remember walking back up to

Page 58

1 the front of the shop with him from the oil
 2 bays.
 3 Q By "him" you're referring to Kevin
 4 Sullivan?
 5 A Yes.
 6 Q Did you take him to show Kevin Sullivan
 7 where the oil spill was?
 8 A I can't recall if he was down back closing
 9 the doors, the oil bay doors, because
 10 people left them open all the time. I
 11 can't recall what he was doing or if I took
 12 him down there. But I remember walking
 13 back from the oil bays.
 14 Q And do you recall telling Kevin Sullivan
 15 about the spill?
 16 A I think I told him about the spill. I'm
 17 pretty sure I said, Hey, there's -- I think
 18 I said something like, Hey, there's oil
 19 down back.
 20 Q And what was Kevin Sullivan's reaction?
 21 A I don't recall exactly.
 22 Q Did he ask you how big a spill it was?
 23 A I don't remember if he asked me how big it
 24 was or if, when he was walking around, he

Page 59

1 walked down to look at it. I don't
 2 remember exactly what happened.
 3 Q Okay. Did you make any suggestions to him
 4 that, We need to clean that up tonight?
 5 A I don't recall.
 6 Q Did you, in your experience, feel that it
 7 needed to be cleaned up before the shop was
 8 closed?
 9 A It honestly should have been cleaned up.
 10 Q Did you have any desire yourself to clean
 11 up the mess?
 12 A Absolutely not.
 13 Q And why not?
 14 A Well, I didn't cause the mess and it was --
 15 I just don't like cleaning oil.
 16 Q Did Kevin Sullivan ask you to stay and
 17 clean up the mess?
 18 A I don't believe so.
 19 Q Did you ever later learn the source of that
 20 oil spill or what caused that oil spill?
 21 A I honestly don't recall what caused the oil
 22 spill.
 23 Q Did anyone ever tell you that they knew the
 24 source or the cause of that oil spill?

Page 60

1 A I can't recall.
 2 Q When's the next time that you had any
 3 discussion or involvement with that oil
 4 spill that you reported to Kevin Sullivan?
 5 A The next day.
 6 Q And what happened the next day?
 7 A I can't remember if I was late or if I was
 8 on an afternoon shift. I don't recall.
 9 But I remember walking into the shop and I
 10 remember somebody was hosing it down with a
 11 garden hose.
 12 Q Do you remember who that person was?
 13 A Andy DiGaetano.
 14 Q And is Mr. DiGaetano still employed at
 15 Sears today?
 16 A No.
 17 Q Do you remember when he left employment?
 18 A I don't recall.
 19 Q Do you know where he works today?
 20 A I have no idea.
 21 Q When was the last time you had any
 22 interaction with him?
 23 A He came by Sears once to get his oil
 24 changed, and I talked to him for about five

Page 61

1 minutes.

2 Q Do you know how long ago that was?

3 A I honestly don't know. It was summer, not

4 last summer, maybe the summer before. I'm

5 not sure. It was warm weather, I should

6 say.

7 Q And upon seeing Andy DiGaetano washing the

8 oil spill down, what did you do?

9 A I stayed away from him.

10 Q Was the area that he was washing down in

11 the same location as you had seen the oil

12 spill that you reported to Kevin Sullivan?

13 A He was washing down the floors, the racks,

14 the oil racks.

15 I mean, he hosed down the

16 whole back of the shop pretty much. The

17 oil spread because of the water. It went

18 outside. It came up to the bays, some of

19 the bays.

20 Q Did you see him in the area that you had

21 seen the oil spill you reported to Kevin

22 Sullivan?

23 A He was. I forget exactly where he was

24 standing. I think he was standing in the

Page 62

1 dead bay and hosing all the oil down.

2 But as far as -- throughout

3 the time he was cleaning -- I mean, he

4 walked -- he walked back and forth through

5 the area, yes.

6 Q Did you get to see the area that you

7 reported to Kevin Sullivan that day when

8 you returned to work?

9 A Can you say that again, please.

10 Q You had earlier described the volume of the

11 spill as about 5-foot wide that was

12 underneath some of the objects stored on

13 the floor?

14 A Yes.

15 Q Did you see that area after you returned to

16 work the next day?

17 A Yes.

18 Q Can you describe what the condition of the

19 oil was there?

20 A It was all over the place. It went from

21 there everywhere.

22 Q Was it obvious to you that someone had been

23 trying to wash down that area?

24 A Yes. It was definitely from the water.

Page 63

1 Q Did you assist at all in that cleanup by

2 Mr. DiGaetano?

3 A No.

4 Q Did you talk to anyone upon your return to

5 work about that cleanup?

6 A That day when he was --

7 Q -- doing the cleanup?

8 A Yes.

9 Q Who did you talk to?

10 A We'd talk -- a bunch of us were talking, as

11 far as what was going on. We had to fill

12 out statements as to what we saw. I had to

13 talk to Bill Sullivan. He called people in

14 the office, asked him what happened.

15 Q Anything else?

16 A That's as far as I can remember. I mean,

17 we talked amongst ourselves.

18 Q When you say you talked amongst yourselves,

19 was that amongst the techs that were in the

20 shop?

21 A Yes, all the Sears employees that worked in

22 the shop, some of the salesmen.

23 Q Did any of them advise you or describe how

24 that oil spill had occurred?

Page 64

1 A No, not to the best of my knowledge.

2 Q Did anyone mention that Eric Souvannakane

3 had done the oil spill?

4 A No, not to the best of my knowledge.

5 Q Did you tell any of the other employees or

6 salesmen that you had seen Eric cause an

7 oil spill earlier the prior day?

8 A I don't recall.

9 Q Who's Bill Sullivan?

10 A As far as I know, he's some big corporate

11 guy that works for Sears.

12 As far as his position, I'm

13 not really sure.

14 Q Had you ever met him before the date that

15 he came on the day of the oil spill?

16 A No.

17 Q And how is it that you came to speak to him

18 on the day of the oil spill -- the day

19 after the oil spill, excuse me?

20 A We had to go in the office. The office was

21 in the back at that time. The office is

22 now in the front of the store.

23 We had to go in; they handed

24 us a sheet. You fill out a statement of

Page 65

1 what you saw; you sign it and you check a
 2 box and you give it to him. And I
 3 remember -- I remember everyone was filling
 4 out statements. I remember calling my
 5 house asking if I should sign this because
 6 I knew something was going to happen with
 7 this if they had corporate down there and
 8 written statements of what happened.
 9 So I called my house. I
 10 remember calling my house. I remember
 11 talking to my father, asking if I should
 12 sign it. He said, Just tell them what you
 13 know, sign it, and give them the paper.
 14 And that's exactly what I did.
 15 Q Do you recall speaking to Bill Sullivan in
 16 addition to filling out a written
 17 statement?
 18 A Yes.
 19 Q And what do you remember about your
 20 conversation with Bill Sullivan?
 21 A Well, the first or second time I talked to
 22 him?
 23 Q You spoke to him on two occasions?
 24 A Well, the same day -- I got called in the

Page 66

1 office once, and then I got called in the
 2 office again. And I'm not sure if I got
 3 called in a third time. I can't remember.
 4 But I know I got called in at
 5 least twice.
 6 Q Why don't you describe what happened the
 7 first time you were called in to meet with
 8 Bill Sullivan.
 9 A The first time I was called in, he said --
 10 he asked how I was doing. And he seemed
 11 like a nice guy. He asked what happened
 12 and just if I was working and if I was down
 13 there the whole night.
 14 Then the second time I went
 15 in, he was furious. And I -- I don't
 16 remember exactly what he said. But he
 17 said, Do you know your job is at stake
 18 here? Do you know you can get fired over
 19 this? And he said something like, You're
 20 going to tell me what I want to hear or
 21 tell me what I want to hear or tell me what
 22 I want to know or something like that.
 23 And he was trying to -- the
 24 second time I went in, you'd give him an

Page 67

1 answer and he'd try to twist it around.
 2 And I said, you know, Everything you want
 3 to ask me or everything you want to know is
 4 on that paper I gave you, and I walked out,
 5 I walked out of the office.
 6 Q So by the time you met with him the second
 7 occasion, you had already submitted your
 8 written statement?
 9 A We had submitted our written statement
 10 before the first time. I remember there
 11 were a bunch of us filling out statements,
 12 and we put them on the desk and walked out
 13 of there. And he called us in the office
 14 one by one.
 15 Q How long did the first meeting that you had
 16 with him last?
 17 A I don't recall. It was maybe 10 minutes.
 18 Q And the second meeting, how long did that
 19 last?
 20 A It didn't last long because I walked out of
 21 there.
 22 Q And did anything happen as a result of your
 23 walking out?
 24 A No.

Page 68

1 Q Did Mr. Sullivan order you to come back in?
 2 A Not that I can recall.
 3 Q And you were never terminated or otherwise
 4 disciplined for walking out of that
 5 meeting, were you?
 6 A No.
 7 Q Was Eric Souvannakane's name mentioned in
 8 either one of those meetings with Bill
 9 Sullivan?
 10 A Yes.
 11 Q When's the first time Eric Souvannakane's
 12 name was mentioned?
 13 A I know he mentioned him the second time
 14 because he said, I know Eric was here. I
 15 know he's upset about being fired. And
 16 that's all I can remember about Eric being
 17 mentioned.
 18 Q And how did you respond when you were told
 19 that he knew Eric was there and upset about
 20 being fired?
 21 A I said, Yeah, he was here; he borrowed my
 22 truck.
 23 Q Did you agree that Eric was upset about
 24 being fired?

1 interview you had with Bill he was furious,
 2 is that accurate?
 3 A Yes.
 4 Q Do you know why he was furious?
 5 A I have no idea. He was talking to people
 6 the whole day, calling people in and out of
 7 there. And I guess somebody upset him.
 8 Q Did you get the sense that he was furious
 9 at you specifically or just mad in general?
 10 A I honestly couldn't answer you about that.
 11 I mean, as far as -- I don't know. You
 12 could -- he could have been mad at the
 13 situation. I'm not sure if he was mad at
 14 me specifically.
 15 Q What made you think he was furious? What
 16 was he doing to make you think he was
 17 furious?
 18 A His face was red; he was just yelling.
 19 Q Yelling at you or just yelling?
 20 A He was directing his words towards me. I
 21 mean, I was the one he was asking
 22 questions.
 23 Q You said that in that second interview he
 24 said things to you, like, You could get

1 fired, tell him what he wants to know and
 2 that your job is at stake. Do you recall
 3 those?
 4 A Yes. And on this statement right below
 5 here, it says, I have made this statement
 6 on my own free will, no threats or promises
 7 were made to me.
 8 Q I understand that. We'll get to the
 9 statement in a second.
 10 I just want to talk to you
 11 about what Bill was saying to you, and then
 12 we'll get to that statement.
 13 But do you recall him saying
 14 those things to you?
 15 A He said something similar to that.
 16 Q Do you recall him saying anything else of
 17 that nature?
 18 A That's all I can remember.
 19 Q So he basically told you that your job was
 20 at stake and you could get fired and he
 21 wanted you to tell him what he wanted to
 22 know, meaning he wanted you to tell him
 23 that you knew what happened, correct?
 24 A Yes.

1 Q So he never told you to lie, did he?
 2 A He never told me to lie per se. He, kind
 3 of, hinted towards he knew Eric was down
 4 there that night, and he knows Eric did it.
 5 He knows Eric --
 6 Q Did he say he knows Eric did it? I'm
 7 sorry; I don't mean to interrupt you.
 8 A He says, I know Eric got fired; I know
 9 you're friends with Eric; and I know he was
 10 down here.
 11 I'm 100 percent sure he said
 12 those three things. And after that, I'm
 13 not really sure.
 14 Q So you don't remember if he ever said, I
 15 know Eric did it, is that correct?
 16 A I don't recall.
 17 Q And you don't recall him ever telling you
 18 that he wanted you to tell him that Eric
 19 did it or you were going to be terminated,
 20 is that correct?
 21 A He hinted on the fact that, like I said
 22 before, he said, You know your job is at
 23 stake here. You know you can get fired
 24 over this.

1 And after -- whatever he said
 2 after that, I don't recall. I was
 3 infuriated when he said that stuff to me.
 4 Q If he had said to you, I want you to tell
 5 me Eric Souvannakane caused this oil spill
 6 or you're going to be terminated, would you
 7 have remembered that?
 8 A Probably.
 9 Q But you don't remember him saying that, is
 10 that correct?
 11 A No, I don't remember him saying that, no.
 12 Q And, in fact, you left the office without
 13 ever saying that Eric Souvannakane was the
 14 one that caused the oil spill, is that
 15 correct?
 16 A I never told Bill Sullivan that Eric caused
 17 the oil spill.
 18 Q You're still employed at Sears?
 19 A Yes, I am.
 20 Q And you were never disciplined as a result
 21 of leaving that office, is that correct?
 22 A No, I wasn't.
 23 Q And you were never disciplined as a result
 24 of not telling Bill that Eric Souvannakane

1 was involved in the oil spill?

2 A No, I wasn't.

3 Q You also testified you don't recall whether

4 or not you told Bill that Eric had been

5 involved in a smaller spill earlier that

6 night, is that accurate?

7 A I don't recall telling him about that, no.

8 Q Getting back to the statement, you read the

9 portion on the bottom?

10 A Yes.

11 Q That says you have made this statement of

12 your own freewill and no threats or

13 promises were made to you as an inducement

14 to give this statement?

15 A Yes.

16 Q I presume that was accurate at the time you

17 signed this statement?

18 A When we signed this -- this was before we

19 even got called into the office and

20 questioned. You'd sign this, hand it in

21 and then they'd start calling you.

22 Q So at the time you signed this statement,

23 no threats or promises were made to you?

24 A No.

1 Q Do you feel that there were any threats or

2 promises made to you at any time during the

3 course of the investigation?

4 A Yes.

5 Q When?

6 A When he told me my job was at stake and he

7 wanted to know who did it and my answer of,

8 I don't know wasn't -- apparently wasn't

9 good enough for him.

10 Q Do you think he was trying to get to the

11 truth of the matter?

12 A He was obviously trying to get to the

13 truth. But as far as saying your job is at

14 stake when I had nothing to do with this

15 whole thing is --

16 Q Would your job be at stake if you did know

17 something and you lied? Is that what you

18 took it to mean?

19 A I never told him any kind of lies. I told

20 him exactly what it says on this paper.

21 Q I understand that.

22 What I actually asked was: Do

23 you think your job was at stake if you knew

24 something that had happened but actually

1 lied about it?

2 A No. Honestly, that's why I got mad because

3 he was -- I know he was -- he was saying

4 this stuff to me, and I didn't even know

5 what to tell him because I already told him

6 everything I knew about the whole fact of

7 the matter, and he insisted that I knew

8 stuff that I didn't know.

9 Q And is it accurate that you then told him

10 you didn't know anything beyond what was in

11 the statement and you left the office?

12 A Yes. I said, Any other questions you have,

13 my statement is right there. I don't want

14 to say that was word for word. It was

15 something like that. And I left; I walked

16 out of there.

17 Q Do you recall meeting with me last week

18 when you told me that you didn't want Sears

19 to represent you at this deposition?

20 A Yes.

21 Q Do you recall that after you had told me

22 that, you also told me that Sears had even

23 contacted you to offer representation?

24 A Yes.

1 Q Do you recall telling me that that was

2 because you had a "beef" with somebody at

3 Sears and you were surprised that they

4 offered to represent you?

5 A Yes, I was surprised that they sent someone

6 to represent me because of this whole --

7 well, as far as this statement, I was

8 surprised after that because I didn't

9 understand how they could on one hand do

10 that, say things of that matter to me, and

11 then send somebody to represent me.

12 Q So this was the "beef" that you were

13 referring to?

14 A Yes.

15 Q So you feel as though you and Bill Sullivan

16 have a "beef"?

17 A Well, as far as -- not like a beef, but, I

18 mean, as far as him saying things to me --

19 Q Him saying things like what? Can you be

20 specific?

21 MR. CLOHERTY: And your "him"

22 is Bill Sullivan?

23 MS. TRAN: Bill Sullivan, yes.

24 A As far as Bill saying things like, Your job

STATEMENT

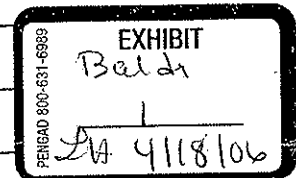
October 17, 2003

I, John W. Baldi, an associate of Sears, Roebuck and Co., freely make the following statement to Bill Sullivan who I know to be representative of Sears, Roebuck and Co.

I have been employed at Sears C163, since November 1, 2002 a Tech 1; my associate number is 439919 and my Social Security number is 019640800.

On this date October 17, 2003 requested my cooperation in discussing a situation that occurred during my employment with Sears. My statement pertaining to this situation follows:

The night of October 16, 03 I did an oil change at around 5:00. There was no spill then. I noticed a small spill at about 8:30 and was told by another tech that he informed the LCSA of a "mess" down back I came to work the morning of the 17th and was asked if and what time I did an oil change the night before. I didn't notice how large the spill became until about 8:30 that morning when I saw a tech cleaning it up.



I have read this statement, the contents of which are true facts, that have been discussed with Bill Sullivan and me on this date.

I have made this statement of my own free will. No threats or promises were made to me, as an inducement to give this statement.

SIGNED	<u>John W. Baldi</u>	DATE	<u>10/17/03</u>	TIME	<u>12:45</u>
WITNESS		DATE		TIME	
WITNESS		DATE		TIME	